IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12081 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SURESH POPATDAS SEVAK

Versus

G.E.B.

Appearance:

1. Special Civil Application No. 12081 of 2001

MR CH VORA for Petitioner No. 1

MR SP HASURKAR for Respondent No. 1

..... for Respondents No. 2-3

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 31/01/2002

ORAL JUDGEMENT

1. Rule. Service of rule is waived by learned advocate Shri Hasurkar appearing for the respondent.

2. Learned advocate Shri C.H. Vora appearing for the petitioner has submitted that appointment of the petitioner was cancelled by the impugned order dated 17.12.1999 in violation of the principle of natural justice. It has been submitted by him that the petitioner was not afforded any opportunity of hearing before the impugned order was passed whereby appointment of the petitioner has been cancelled.

3. It has also been submitted by learned advocate Shri Vora that Shri A.R. Jat, whose name has been referred to in the impugned order, had filed Special Civil Application No.803/2000 challenging the validity of the order whereby his appointment was cancelled. The appointment order of the petitioner and Shri A.R. Jat had been cancelled by a common order, being order dated 17.12.2000, which has been challenged in this petition. A copy of the judgment delivered in case of Shri A.R. Jat has been annexed as annexure-I to this petition. The said petition has already been allowed by this Court.

4. It has been, therefore, submitted by learned advocate Shri Vora that this petition should also be allowed, as appointment order of the petitioner had been cancelled in violation of the principles of natural justice.

5. Learned advocate Shri Hasurkar appearing for the respondent authorities could not dispute the fact that the petitioner was not given any opportunity of being heard before the impugned order had been passed. It has also been very fairly submitted by him that the facts of the case of Shri A.R. Jat referred to hereinabove and the facts of the case of the petitioner are similar.

6. Looking to the facts of the case, and in view of the judgment delivered by this Court in case of Shri A.R. Jat in S.C.A No.803/2000 and in view of the admitted fact that the petitioner was not heard before the impugned order was passed, the impugned order deserves to be quashed and set aside.

7. In view of the above facts, order dated 17.12.1999, annexure-G so far as it pertains to the petitioner is quashed and set aside. Needless to say that it would be open to the respondent authorities to take appropriate action in accordance with law, if they feel that the appointment of the petitioner should be cancelled. The petition is allowed. Rule is made absolute with no order as to costs. Direct Service is permitted.

(A.R. Dave, J.)

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